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AN ACT in relation to criminal law.

Be it enacted by the People of the State of Illinois,represented in the General Assembly:

4 Section 5. The Criminal Code of 1961 is amended by 5 adding Section 17-1b as follows:

6 (720 ILCS 5/17-1b new)

7 <u>Sec. 17-lb. State's Attorney's bad check diversion</u> 8 program.

9 <u>(a) In this Section:</u>

10 <u>"Offender" means a person charged with, or for whom</u>
11 probable cause exists to charge the person with, deceptive
12 practices.

13 <u>"Pretrial diversion" means the decision of a prosecutor</u>
14 to refer an offender to a diversion program on condition that
15 the criminal charges against the offender will be dismissed
16 after a specified period of time, or the case will not be
17 charged, if the offender successfully completes the program.

18 <u>"Restitution" means all amounts payable to a victim of</u> 19 <u>deceptive practices under a bad check diversion program</u> 20 <u>created under this Section, including the amount of the check</u> 21 <u>and any transaction fees payable to a victim as set forth in</u> 22 <u>subsection (g).</u>

(b) A State's Attorney may create within his or her 23 24 office a bad check diversion program for offenders who agree to voluntarily participate in the program instead of 25 undergoing prosecution. The program may be conducted by the 26 27 State's Attorney or by a private entity under contract with the State's Attorney. If the State's Attorney contracts with 28 a private entity to perform any services in operating the 29 program, the entity shall operate under the supervision, 30 direction, and control of the State's Attorney. Any private 31

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1	entity providing services under this Section is not a
2	"collection agency" as that term is defined under the
3	Collection Agency Act.
4	(c) If an offender is referred to the State's Attorney,
5	the State's Attorney may determine whether the offender is
6	appropriate for acceptance in the program. The State's
7	Attorney may consider, but shall not be limited to
8	consideration of, the following factors:
9	(1) the amount of the check that was drawn or
10	passed;
11	(2) prior referrals of the offender to the program;
12	(3) whether other charges of deceptive practices
13	are pending against the offender;
14	(4) the evidence presented to the State's Attorney
15	regarding the facts and circumstances of the incident;
16	(5) the offender's criminal history; and
17	(6) the reason the check was dishonored by the
18	financial institution.
19	(d) The bad check diversion program may require an
20	offender to do one or more of the following:
21	(i) pay for, at his or her own expense, and
22	successfully complete an educational class held by the
23	State's Attorney or a private entity under contract with
24	the State's Attorney;
25	(ii) make full restitution for the offense;
26	<u>(iii) pay a per-check administrative fee as set</u>
27	forth in this Section.
28	(e) If an offender is diverted to the program, the
29	State's Attorney shall agree in writing not to prosecute the
30	offender upon the offender's successful completion of the
31	program conditions. The State's Attorney's agreement to
32	divert the offender shall specify the offenses that will not
33	be prosecuted by identifying the checks involved in the
34	transactions.

1 (f) The State's Attorney, or private entity under 2 contract with the State's Attorney, may collect a fee from an offender diverted to the State's Attorney's bad check 3 4 diversion program. This fee may be deposited in a bank account maintained by the State's Attorney for the purpose of 5 6 depositing fees and paying the expenses of the program. The State's Attorney may require that the fee be paid directly to 7 8 a private entity that administers the program under a 9 contract with the State's Attorney. The amount of the administrative fees collected by the State's Attorney under 10 the program may not exceed \$35 per check. The county board 11 may, however, by ordinance, increase the fees allowed by this 12 Section if the increase is justified by an acceptable cost 13 study showing that the fees allowed by this Section are not 14 15 sufficient to cover the cost of providing the service.

16 (g) The State's Attorney, or private entity under 17 contract with the State's Attorney, may recover, in addition to the face amount of the dishonored check or draft, a 18 transaction fee to defray the costs and expenses incurred by 19 a victim who received a dishonored check that was made or 20 delivered by the offender. The transaction fee shall be paid 21 22 to the victim as restitution for the offense. The amount of the transaction fee must not exceed: \$25 if the face amount 23 of the check or draft does not exceed \$100; \$30 if the face 24 25 amount of the check or draft is greater than \$100 but does not exceed \$250; \$35 if the face amount of the check or draft 26 is greater than \$250 but does not exceed \$500; \$40 if the 27 face amount of the check or draft is greater than \$500 but 28 does not exceed \$1,000; and \$50 if the face amount of the 29 check or draft is greater than \$1,000. 30